

**Planning Commissioner Written Comments  
April 12, 2016**

**Witherspoon Garrett Road (A1500023)**

**BRINE** – I voted against this plan amendment request because it was not consistent with Comprehensive Plan policy 2.1.3b. There is a 0.30 acre special flood hazard area on the site designated as Recreation and Open Space on the FLUM. The applicant wants to change this designation to Low Density Residential and to use about half it in the proposed development.

While I appreciate the need for Witherspoon Rose Garden to make efficient use of this site, I am hesitant to change the designation of this special flood hazard area. This area is not a surface feature; instead, it is part of a small ravine (10-20 feet deep?). In addition, after a heavy rain, a small intermittent stream flows in it. Because of the ravine and the intermittent stream, I have trouble seeing how this small flood hazard area will be useful to the proposed project.

**BUZBY** – Given the staff recommendation to deny this plan I vote no. While I see many positives in this proposal, I am uncomfortable approving this proposal due to reclassifying a special flood hazard area away from Recreation and Open Space on the Future Land Use Map. Without any additional details on the site plan showing how this area would be used in the proposed development, I am not comfortable supporting this proposal.

**FREEMAN** – How are sewer easements classified? NO classification and last updated in 2005 smaller would prefer to preserve open space zoning for the sewer easement and the mound with pooling water on the site. Acknowledging the business needs and improved site but, we need to ensure the delineation of the sewer easement. A site plan commitment that increased the committed finger.

**GHOSH** – I think this plan amendment is very reasonable in light of the restrictions imposed by the zoning case. The biggest hiccup is the .3 acre finger currently designated for open space. There is a sewer line already occupying the majority of that finger. As a result, that space actually is not preserved in any natural state. Moreover, that sewer main to break and the area would surely be dug up. I do not believe the space currently is designable for open space and actually a good candidate for open space as the easiest sewer line must be maintained. Likewise, I have a use changing the designation to something as low impact as what is being proposed.

**GIBBS** – Voted to approve project as presented. Good addition to a growing “neighborhood” recommends City Council approval its ben in use on this lot for years by Yates Baptist Association Building.

**HUFF** – Voted approval. I voted to approve the plan amendment and subsequent rezoning for this project despite the fact that it reclassifies an area of flood hazard that is recommended to be recreation and open space. In total this area amounts to .3 acre but it has a sewer easement that runs through most of it. By limiting development to outside the part of this flood area that is designated New Hope Creek Bottomland Forest, the applicant is also sequestering part of the flood hazard zone. This leaves only a small piece of the flood hazard zone that will be subject to development. This small piece strikes me as insignificant given the agricultural use to which the property will be put. Although the operation will generate some truck traffic the business in general is quiet and should be an appropriate neighbor to surrounding residential. Witherspoon has been a fixture in this part of the county for over 60 years. It is a unique business and its presence can offer aesthetic relief to the otherwise mundane development that has gone on around the boulevard.

**HYMAN** – Concerned about Open Space recreation decision setting precedence but not to the extent that I am willing to not support forward movement.

**MILLER** - The City Council should approve this change to the Comprehensive Plan's Future Land Use Map.

This case and the accompanying zoning change request pose some very interesting questions and problems. These arise mainly because the applicant's proposed use is not one very well contemplated by Durham's plans and zoning ordinances. The applicant operates a highly specialized and very nearly unique rose business. Their primary business is the creation and servicing of offsite rose gardens for customers ranging from South Carolina to Virginia. At their business site they receive rose plants from vendors and nurseries elsewhere and prepare the plants for installation in the gardens the applicant creates for their customers. This involves potting and care of developing rose plants. The applicants operate trucks and store the materials they need to do their offsite work. The applicants also have a small retail operation. Nothing in the UDO expressly contemplates so specialized a land use. The applicant applied to the planning director for a determination of which zones their operation could go in and the response was RR and RS-20 because the use, as determined by the planning director, is primarily agricultural.

The applicant's current business operation is located not far away in the suburban tier. The site in question is also in the suburban tier. As a practical matter, the applicant's business is a very low intensity operation entirely appropriate for the suburban tier and for the Garrett Road site selected. Due to the UDO classification problems, however, organizing the comprehensive plan and zoning designation to accommodate the business anywhere in the suburban tier requires us to bring Rural Residential use and zoning to a place where we don't often think of it as belonging. Under the unique circumstances of this situation, I am comfortable with this FLUM change. Certainly the proposed use – even an RR(D) zone – is as appropriate for this site under the comprehensive plan as any office project that might be built there under the current FLUM

designation. No one can argue that what applicant propose to do (and has limited themselves to doing by the commitments they have included in their development plan) are incompatible with surrounding uses or patterns of development.

One difficulty above and beyond the classification problem is the presence of an area on the property current marked as recreation and open space. This area is comprised of one third of an acre and follows the flood hazard contour on the map. It is occupied to a very large degree by a sewer easement. Behind the area is a remarkable and entirely artificial hill created years ago as a stump dump. To accommodate the applicant's business, the applicant has asked that less than on-half of the area designated open space be re-designated for development. While I would normally like to see such areas remain open, in this case I am not troubled by the change. Given the very low intensity of the applicant's prosed use, the presence of the sewer easement within the open space area in question, the proximity of the stump dump, and the fact that no significant environmental impact will result from the change in designation of the land in question, I believe that changing the FLUM in this case is appropriate and consistent with the criteria for pan amendments.

**VANN** - Staff recommend denial as it does not meet Comprehensive Plan policy 2.1.36. I coted yes.

**WHITLEY** – I vote to approve.

**WINDERS** – This unique case warrants a change in the Comprehensive Plan that does not comply with the policy about special flood hazard areas. The flood hazard area is very small and the developer has reserved other land that compensates for it.